

SHANE HUMPHREYS, individually)	Case No.
and on behalf of all others similarly)	
situated,)	<u>CLASS ACTION</u>
)	
Plaintiff,)	COMPLAINT FOR VIOLATIONS
)	OF:
vs.)	
)	1. NEGLIGENT VIOLATIONS
CREDIT CONTROL, LLC and DOES)	OF THE TELEPHONE
1 through 10, inclusive,)	CONSUMER PROTECTION
)	ACT [47 U.S.C. §227(b)]
)	2. WILLFUL VIOLATIONS
Defendant.)	OF THE TELEPHONE
)	CONSUMER PROTECTION
)	ACT [47 U.S.C. §227(b)]
)	
)	DEMAND FOR JURY TRIAL

NATURE OF THE CASE

- 1 -

1 remedies resulting from the illegal actions of CREDIT CONTROL, LLC.
2 (“Defendant”), in negligently, knowingly, and/or willfully contacting Plaintiff on
3 Plaintiff’s cellular telephone in violation of the Telephone Consumer Protection
4 Act, 47. U.S.C. § 227 *et seq.* (“TCPA”) and related regulations.

5 **JURISDICTION & VENUE**

6 2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff,
7 a Pennsylvania, seeks relief on behalf of a Class, which will result in at least one
8 class member belonging to a different state than that of Defendant, a Missouri
9 Company. Plaintiff also seeks up to \$1,500.00 in damages for each call; in violation
10 of the TCPA, which, when aggregated among a proposed class in the thousands,
11 exceeds the \$5,000,000.00 threshold for federal court jurisdiction. Therefore, both
12 diversity jurisdiction and the damages threshold under the Class Action Fairness
13 Act of 2005 (“CAFA”) are present, and this Court has jurisdiction.

14 3. Venue is proper in the United States District Court for the Middle
15 District of Pennsylvania pursuant to 28 U.S.C. § 1391(b)(2) because Plaintiff
16 resides within the County of Cameron.

17 **PARTIES**

18 4. Plaintiff, SHANE HUMPHREYS (“Plaintiff”), is a resident of
19 Cameron County, Pennsylvania and is a “person” as defined by 47 U.S.C. § 153
20 (39).

21 5. Defendant, CREDIT CONTROL, LLC INC., is a debt collection
22 company and is a “person” as defined by 47 U.S.C. § 153 (39).

23 6. The above-named Defendant, and their subsidiaries and agents, are
24 collectively referred to as “Defendant.” The true names and capacities of the
25 Defendant sued herein as DOE DEFENDANT 1 through 10, inclusive, are
26 currently unknown to Plaintiff, who therefore sues such Defendant by fictitious
27 names. Each of the Defendant designated herein as a DOE is legally responsible
28 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the

1 Complaint to reflect the true names and capacities of the DOE Defendant when
2 such identities become known.

3 7. Plaintiff is informed and believes that at all relevant times, each and
4 every Defendant was acting as an agent and/or employee of each of the other
5 Defendant and was acting within the course and scope of said agency and/or
6 employment with the full knowledge and consent of each of the other Defendant.
7 Plaintiff is informed and believes that each of the acts and/or omissions complained
8 of herein was made known to, and ratified by, each of the other Defendant.

9
10 **FACTUAL ALLEGATIONS**

11 8. On or around January 2019, Defendant contacted Plaintiff on
12 Plaintiff's cellular telephone number ending in -3256 in an attempt to collect a debt
13 from Plaintiff. However, Plaintiff is not the correct debtor, and never gave prior
14 express consent.

15 9. Defendant used an "automatic telephone dialing system" as defined
16 by 47 U.S.C. § 227(a)(1) to place its calls to Plaintiff seeking to collect a debt.

17 10. Defendant contacted or attempted to contact Plaintiff from telephone
18 number (866)-3832532 belonging to Defendant

19 11. Defendant's calls constituted calls that were not for emergency
20 purposes as defined by 47 U.S.C. § 227(b)(1)(A).

21 12. Defendant's calls were placed to telephone number assigned to a
22 cellular telephone service for which Plaintiff incurs a charge for incoming calls
23 pursuant to 47 U.S.C. § 227(b)(1).

24 13. During all relevant times, Defendant did not possess Plaintiff's "prior
25 express consent" to receive calls using an automatic telephone dialing system or an
26 artificial or prerecorded voice on its cellular telephones pursuant to 47 U.S.C. §
27 227(b)(1)(A).

28 14. Defendant placed multiple calls collecting debt from Plaintiff on his

cellular telephones beginning in or around January 2019.

15. Plaintiff received numerous calls from Defendant within a 12-month period.

16. Plaintiff never granted Defendant any prior express consent nor was any established business relationship with Defendant in existence as defined under 16 C.F.R. 310.4(b)(1)(iii)(B).

CLASS ALLEGATIONS

17. Plaintiff brings this action individually and on behalf of all others similarly situated, as a member the four proposed classes (hereafter, jointly, “The Classes”). The class concerning the ATDS claim for no prior express consent (hereafter “The ATDS Class”) is defined as follows:

All persons within the United States who received any debt collection telephone calls from Defendant to said person’s cellular telephone made through the use of any automatic telephone dialing system or an artificial or prerecorded voice and such person had not previously consented to receiving such calls within the four years prior to the filing of this Complaint.

FIRST CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act

47 U.S.C. §227(b).

18. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth in the paragraphs above.

19. The foregoing acts and omissions of Defendant constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above cited provisions of 47 U.S.C. § 227(b), and in particular 47 U.S.C. § 227 (b)(1)(A).

20. As a result of Defendant’ negligent violations of 47 U.S.C. § 227(b), Plaintiff and the Class Members are entitled an award of \$500.00 in statutory

1 damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

2 21. Plaintiff and the ATDS Class are also entitled to and seek injunctive
3 relief prohibiting such conduct in the future.

4
5 **SECOND CAUSE OF ACTION**

6 **Knowing and/or Willful Violations of the Telephone Consumer Protection**
7 **Act**

8 **47 U.S.C. §227(b)**

9 **On Behalf of the ATDS Class**

10 22. Plaintiff repeats and incorporates by reference into this cause of action
11 the allegations set forth in the paragraphs above.

12 23. The foregoing acts and omissions of Defendant constitute numerous
13 and multiple knowing and/or willful violations of the TCPA, including but not
14 limited to each and every one of the above cited provisions of *47 U.S.C. § 227(b)*,
15 and in particular *47 U.S.C. § 227 (b)(1)(A)*.

16 24. As a result of Defendant' knowing and/or willful violations of *47*
17 *U.S.C. § 227(b)*, Plaintiff and the ATDS Class are entitled an award of \$1,500.00
18 in statutory damages, for each and every violation, pursuant to *47 U.S.C. §*
19 *227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

20 25. Plaintiff and the Class members are also entitled to and seek injunctive
21 relief prohibiting such conduct in the future.

22
23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff requests judgment against Defendant for the following:

25
26 **FIRST CAUSE OF ACTION**

27 **Negligent Violations of the Telephone Consumer Protection Act**

28 **47 U.S.C. §227(b)**

- As a result of Defendant' negligent violations of 47 U.S.C. §227(b)(1), Plaintiff and the ATDS Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to 47 U.S.C. 227(b)(3)(B).
- Any and all other relief that the Court deems just and proper.

SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act

47 U.S.C. §227(b)

- As a result of Defendant' willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the ATDS Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C).
- Any and all other relief that the Court deems just and proper.

JURY DEMAND

26. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully Submitted this 26th Day of March, 2020.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Cynthia Z. Levin, Esq.
Cynthia Z. Levin, Esq.
Law Offices of Todd M. Friedman
Attorney for Plaintiff